

WORK SESSION - CITY COUNCIL - CITY OF NEWTON

MARCH 2, 2004

The City Council of the City of Newton held a work session at 6:00 PM on Tuesday, March 2, 2004 at City Hall with the following present: Mayor Robert Mullinax, Council Members Wayne Dellinger, Al Gaither, Tom Rowe, Anne Stedman, Tom Dixon, Roy Johnson, City Manager Edward Burchins, City Attorney Larry Pitts, Assistant City Manager Glenn Pattishall and City Clerk Rita Williams.

Mayor Mullinax called to order a work session to discuss water and sewer (the meeting was reconvened from the February 18th regular City Council meeting).

City Manager Burchins stated tonight's work session was being held to review areas in the City which are not served with water and sewer service. He stated these areas are the result of the two Eastside Annexations and the Westside Annexation. He said at the time of the annexations, the City met all General Statute requirements by providing trunk water lines and sewer outfalls to these areas. He said the City had at that time and continues to have a Water and Sewer Extension Policy which requires that if there is a sewer line within 200 feet and a water line within 300 feet of their property, property owners are required to connect to them.

Mr. Burchins also reviewed petition requirements and stated if funds are available, the City will pay 1/3 of the cost and property owners are required to pay 2/3 of the cost for extending water and sewer lines. Mr. Burchins stated that since he has been here, no one has come in regarding problems with their wells except during the drought a year or so ago. Since that time, inquiries have gone away. He said the main purpose of extending lines is for health purposes. He also said neighboring cities do not require property owners to tap on to existing lines.

Public Works and Utilities Director Marty Wilson stated the County will not issue a permit for a well or septic tank if City facilities are available within 200'-300'.

He said presently, there are approximately 74 existing housing units which do not have access to City water (1.3% of all accounts) and 566 existing housing units do not have access to City Sewer (11.2% of all accounts). The total cost for all water projects is estimated to be \$705,000. The total cost for all sewer projects is estimated to be \$7,100,000. Sewer construction cost estimates are based on using a low pressure sewer system in most of the Westside annexation area subdivisions. The total for both water and sewer is estimated to be \$7.8 million. Additional revenue needed to service debt based on 15 year financing at 5.5% is estimated to be \$773,000 per year.

The Council discussed at length the issue of providing low pressure systems vs. gravity service and the fact that the City would have to obtain easements to run power to the pumps and maintain them if low pressure systems are used. The Council also discussed in-house pumps for citizens and/or providing septic tanks and drain fields to save money to provide sewer. Engineers would have to determine which method would best serve areas.

City Manager Burchins suggested that perhaps the City could serve everyone in town with water and then look at providing sewer to a few neighborhoods at a time, or provide septic tank clean out service. He stated he would check with the Institute of Government regarding a septic tank program they supposedly have developed.

The Council discussed the need to survey these areas to see if people want services and then determine how, when or if the City can finance the costs.

After further discussion, City Manager Burchins requested time to see what alternatives for providing services might be more feasible and bring them back to the Council for consideration at the second meeting in April and the Council concurred.

Mayor Mullinax said he has talked to some members of the Council about changing the beginning time for Council meetings.

The Council had varied opinions on the beginning time for meetings and held discussion regarding the days of the month meetings are held but no action was taken to change them.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Robert A. Mullinax, Mayor

Rita K. Williams, City Clerk

REGULAR MEETING - CITY COUNCIL - CITY OF NEWTON

MARCH 2, 2004

The City Council of the City of Newton held a regular meeting at 7:30 PM on Tuesday, March 2, 2004 at City Hall with the following present: Mayor Robert Mullinax, Council Members Wayne Dellinger, Al Gaither, Tom Rowe, Anne Stedman, Tom Dixon, Roy Johnson, City Manager Edward Burchins, City Attorney Larry Pitts, Assistant City Manager Glenn Pattishall and City Clerk Rita Williams.

ITEM 1 - CALL TO ORDER.

Mayor Mullinax called the meeting to order and welcomed citizens in the audience.

ITEM 2 - OPENING.

Council Member Stedman gave the invocation and led the Pledge of Allegiance.

ITEM 3 - APPROVAL OF MINUTES OF FEBRUARY 18, 2004 REGULAR MEETING.

A motion was made by Council Member Gaither, seconded by Council Member Dixon, and unanimously adopted that the minutes of the February 18, 2004 regular meeting be approved as submitted.

ITEM 4 - OLD BUSINESS:

- A. Consideration of request for ordinance amendment to allow beer and wine sales at festivals.

Mayor Mullinax recessed the Council meeting and called to order a public hearing, as previously scheduled and advertised, to consider a request for an ordinance amendment to allow beer and wine sales at festivals.

City Manager Burchins reported that at the last Council meeting, the Downtown Newton Development Association requested the Council consider an ordinance amendment to allow them to sell beer and wine on a City leased lot located at Main Avenue and Second Street during NewtonFest. At that time, the Council instructed the Attorney to draft an ordinance which would allow the sale as requested for the Council's consideration.

City Attorney Pitts reviewed the proposed ordinance amendment which would allow beer and wine sales on public streets or property owned by the City or occupied or controlled by the City or on parking lots which the public is not prohibited from using provided by industrial, commercial, business, professional and governmental establishments or agencies under which are temporarily closed to regular traffic for community events and festivals under the following conditions:

- (1) Upon the issuance of a special use permit therefore by the City Manager or designee.
- (2) Application must be made by and a special use permit can only be issued to the event or festival sponsoring organization. Application must be filed with the City Manager at least 45 days prior to the beginning of the event or festival.
- (3) Applicant must be a non-profit organization, organized and existing for the purpose of either some charitable or public benefit or for the promotion of business in the Downtown Area of Newton.
- (4) Applicant shall have in place an insurance policy with a company authorized to do business in North Carolina with comprehensive general liability coverage in the amount of not less than Three Hundred Thousand Dollars (\$300,000.00) for bodily injury per person and One Million Dollars (\$1,000,000.00) per occurrence and not less than One Hundred Thousand Dollars (\$100,000.00) for property damage. A Copy of the policy or endorsement must be filed with the City Manager prior to the event. The time period must cover the event and time for reading for the event and cleanup.
- (5) Applicant must provide a sketch of the area where such beverages will be sold and consumed. The area shall be delineated by barricades, with the entrance to be clearly marked and so constructed as to allow ready control of patrons, including

viewing of identification and to avoid underage persons being within the barricaded area. Signs shall be posted stating that no one shall leave the barricaded area with alcoholic beverages. Applicant shall set out what security measures will be in place to insure compliance with this provision during the event or festival.

(6) Application must be made to proper State authorities for special permit for sale of alcoholic beverages and permit issued prior to the event. Special permit shall be available for inspection by the City at any time.

(7) Applicant shall at all times during the event or festival comply with all laws, rules and regulations, Federal, State and Local, pertaining to the sale or consumption of alcoholic beverages. Failure to do so, will result in immediate and summary revocation of the special use permit.

Mayor Mullinax asked if there was anyone in the audience who wanted to speak for or against the proposed ordinance amendment.

Mrs. Mae McLean spoke against the sale of beer and wine during festivals as she felt NewtonFest and Reunion are family activities.

Rev. Dean Hart, Pastor of Startown Baptist Church, spoke against he proposed ordinance change as he felt festivals should be family oriented and the sale of beer and wine would be detrimental to the community. He said he had a petition with a number of names on it objecting to the proposed ordinance change but he did not submit the petition for the City's records.

Rev. Peggy Geter, Pastor of St. John's Holiness Church, spoke against the proposed ordinance amendment and outlined a number of problems which could occur if alcohol is provided.

Ms. Virgie Mungro spoke against the proposed ordinance amendment and said everyone cannot handle consumption of beer and wine and felt trouble could arise due to alcohol sales. She asked the Council to keep the festivals clean and joyful for families.

Ms. Carrie Icard spoke in opposition to the proposed amendment and stated festivals are held for the enjoyment of people and felt it would be a mistake to change the ordinance.

Mr. Stan Winstead, Chair of the DNDA, spoke for the proposed amendment and explained that the DNDA consists of a group of volunteers, businesses, people, merchants and concerned citizens who are there because of their love for the City and who want to do good things for Newton. He said their intent was to expand NewtonFest this year to help it grow into a regional event with more cultural flair, artistic flair and to provide more activities and entertainment. He said the proposed beer garden would be a small part of the festival and that it would be well controlled in a contained area away from planned children's activities. He said the sale of beer and wine during festivals has worked for other cities without problems and he asked the Council to consider adopting the proposed amendment.

Mr. Scott Kelly spoke in support of DNDA and NewtonFest, not for or against the proposed ordinance amendment.

Mr. Dale Mullens spoke against the proposed amendment and stated that he was a nine-year recovering alcoholic and that the sale of beer and wine would be a bad thing.

Council Members discussed the proposed amendment and voiced their varied opinions regarding the matter. Afterwards, a motion was made by Council Member Gaither, seconded by Council Member Dixon, to adopt the amendment. Mr. Gaither stated that with respect to all people who attended the meeting and expressed their opinions, he thought it would be a good thing for the City. Council Members Gaither, Dixon, Stedman and Rowe voted for the amendment. Council Members Johnson and Dellinger voted against it. The motion carried four to two.

ORDINANCE #2004.16 ATTACHED

ITEM 5 - NEW BUSINESS:

A. Consideration of adoption of Ozone Control Measure Resolution.

Assistant City Manager Glenn Pattishall reported that in December, 2002, the Unifour Air Quality Early Action Compact was formed by four unifour counties and six municipalities in response to EPA's pending designation of our area as nonattainment

for ozone. He said the purpose of the EAC is to defer the effective date of designation of ozone nonattainment until December, 2007, gaining time to allow local governments to implement ozone reduction measures and attain the eight hour standard to avoid the consequences of this which could be severe in terms of jobs and economic development as well as money for street improvements and thoroughfare construction.

He said the main element of the EAC was a commitment by local governments to implement certain measures that would decrease ozone to allow the area to attain the eight hour standard. He said every member local government of the EAC was being requested to adopt a resolution to approve the Ozone Control Measures.

A motion was made by Council Member Dellinger, seconded by Council Member Johnson, unanimously adopting the following resolution:

RESOLUTION #3-2004

WHEREAS, by resolution of their governing boards, four Unifour counties (Alexander, Burke, Caldwell, Catawba) and six municipalities (Conover, Hickory, Lenoir, Morganton, Newton, Taylorsville) formed the Unifour Air Quality Early Action Compact (EAC) in December 2002; and

WHEREAS, this Region currently exceeds the Environmental Protection Agency=s (EPA=s) eight-hour standard for ozone but desires to achieve cleaner, healthier air and thereby avoid the consequences of designation as a Anonattainment area; and

WHEREAS, by forming the Unifour EAC and working in partnership with the N.C. Division of Air Quality and EPA, the Region can defer the effective date of designation as an ozone nonattainment area from December 2004 to December 2007, thereby gaining time to implement ozone reduction measures and attain the eight-hour standard; and

WHEREAS, the Western Piedmont Council of Governments, on behalf of their member governments, appointed the Unifour Air Quality Committee (Stakeholders Group), consisting of public officials, representatives of the environmental community, business and industry, to develop ozone reduction strategies for local government adoption; and

WHEREAS, the UAQC engaged in an extensive process of education, data evaluation, and public participation, leading to development of the attached Ozone Control Measures, which it recommends for approval;

NOW THEREFORE BE IT RESOLVED that the City of Newton hereby approves the Ozone Control Measures; and

FURTHER that, the City of the Newton will use applicable strategies as policy guidelines in decisions affecting purchasing, workplace practices, evaluation and implementation of capital projects, transportation and land use planning, and communications with its citizens; and

FURTHER that, the City of Newton will, along with other jurisdictions in the region, participate in providing information to the N.C. Division of Air Quality in order to track the Region=s progress in lowering ozone producing emissions; and

FURTHER that, a copy of this Resolution along with the Ozone Control Measures be forwarded to the Environmental Protection Agency and the N.C. Division of Air Quality for inclusion in the preliminary Unifour Early Action Plan for attainment of the eightBhour ozone standard.

Adopted by the Newton City Council this the 2nd day of March, 2004.

ATTEST:

Rita K. Williams, City Clerk

Robert A. Mullinax, Mayor

B. Consideration of modification to Planned Development #2004-01 - Bradbury Apartments.

Assistant City Manager Pattishall reported that in 1997, a 5.43 acre piece of property located in the southwest quadrant of the intersection of Boundary Street and Old Startown Road was rezoned from R-20 Single Family Residential to PD-H Planned Developing Housing classification. The developer planned to construct a 56 unit complex named Cedarwood West. However, the developer never followed through with the project.

The Gateway Company represented by Mr. Thomas Ward proposes to develop the same 5.43 acre piece of property with a 40 unit Bradbury Apartment Complex which is considered a change to the original preliminary plan which was approved in 1997. Mr. Pattishall stated the new proposed development is required to be approved by the present City Council and the staff has

recommended its approval with the conditions set out in their report.

A motion was made by Council Member Dellinger, seconded by Council Member Rowe, and unanimously adopted to approve the modification to Planned Development #2004-01 - Bradbury Apartments as requested subject to the conditions outlined by the City Staff.

ITEM 6 - CITY MANAGER'S REPORT.

Public Information Director Bootsie Roberts reported on a promotional tool the City is planning. The City will join with ElectriCities on a 50/50 match to purchase bags with the City's, ElectriCities' and the Catawba County Library system's logos on them. The plan is to be a good neighbor to children who visit the Library to provide them with bags to carry their library books and as an educational tool to help the public and legislators understand and recognize that there are cities in the electric business throughout North Carolina. Newton is a member of ElectriCities of North Carolina. Mrs. Roberts stated that this is another example of how the City is "Working Together for our Community".

The Mayor and City Council were very supportive of the new promotional tool.

City Manager Burchins reported that the Council has received an invitation from Sarstedt to tour their plant and to have lunch on March 16th. However, due to a conflict he stated that the tour will have to be rescheduled.

Mayor Mullinax encouraged all Council members to attend, if possible.

City Manager Burchins reported that ElectriCities has retained The Sanford Holshouser Business Development Group LLC to develop strategic economic development plans for Newton and cities in the Western Agency. He said that on March 19th, representatives from ElectriCities would like to meet with the City Council from 9 - 11 AM to overview what they plan to accomplish with the Economic Development Project and requested Council Members plan to attend the meeting, if possible.

Mayor Mullinax thanked Public Works and Utilities Director Marty Wilson and his staff for their excellent snow removal efforts during the last snow storm.

There being no further business, a motion was made by Council Member Gaither, seconded by Council Member Dixon, and unanimously adopted that the meeting be adjourned.

Respectfully submitted,

Robert A. Mullinax, Mayor

Rita K. Williams, City Clerk